

REMARKS

Claims 1-11, 13-15, 17-25 and 40 are now pending in the application. This response is being filed with a Request for Continued Examination in order to have an Information Disclosure Statement considered. The Examiner is respectfully requested to consider the remarks contained herein.

Applicants note that claims 1, 10, and 17 include "a generally flat carrier having a generally planar top surface." Applicants note that what the Examiner considers the carrier (11) in Creavey is not "generally flat" and does not have a "generally planar top surface," as claimed. Applicants further note that Jackson fails to teach a generally flat carrier having a generally planar top surface. Applicants further note that in both Creavey and Jackson, the carrier and stopper members are integrally formed, as admitted by the Examiner. The Examiner uses the combination of Udagawa with Creavey and Jackson to allegedly teach independently formed stopper members. However, Udagawa merely discloses a single stopper F12 and also fails to disclose a flat carrier. Applicants submit that to establish a prima facie case of obviousness, the prior art references must teach or suggest all the claim limitations. See MPEP 2142. Accordingly, it is noted that none of the references disclose a flat carrier having a generally planar top surface, as claimed. Applicants note that in Patent No. 6,530,575 cited in the attached Information Disclosure Statement, the '575 patent appears to disclose a generally flat carrier in Figures 2 and 3 but fails to disclose first and second stopper members formed independently from the carrier, as claimed. In Figure 4, an alternative embodiment is shown including clefs 7 serving as "tightening stops" which

are integral with, and therefore not formed independently from, the carrier, as claimed. Therefore, none of the references teach or suggest the subject matter of the claims.

In response to Applicant's hindsight argument, the Examiner indicates that "[o]ne of ordinary skill, looking at the prior art reference of Udagawa would recognize that stoppers [may] be formed either way to arrive at the same result." However, Applicants submit that in order to arrive at this result, one would also need to look at the claimed gasket. This is the essence of an impermissible hindsight reconstruction. There is nothing present in the references that provides an apparent reason for their combination or the modifications suggested by the Examiner. Therefore, the Examiner's rejection appears to be nothing more than a hindsight reconstruction of Applicant's claimed gasket resulting from picking and choosing individual elements from each of the references.

Specifically, Udagawa discloses an entirely metal gasket, including the seal member (E13, F13 in Figs. 6 and 7). Any portion of Udagawa that could be considered the stopper member (E12, F12) is integrally formed with a "top surface" of a carrier portion of the gasket (F10). The same is true in Creavey, Jackson, and the newly cited Poquet et al '575 reference. Each of claims 1, 10, and 17 requires a generally flat carrier member with a generally planar surface, stopper members independently formed from the carrier and located on the top surface, and an elastomeric seal member on the top surface.

Contrary to the claimed features, Udagawa discloses a carrier having a non-planar surface and a metal, not elastomeric, seal member. Further, Udagawa merely discloses two metal plates F10, F15 in Figure 7 placed on top of one another, not the

claimed carrier having independently formed stopper members and an elastomeric seal member extending from a top surface thereof. In order to arrive at his gasket constructed from the combination of references, one must selectively pick and choose among the various elements. Specifically, one must ignore the integrally formed stopper members in Creavey and Jackson. One must then take the metal gasket (F10) of Udagawa having integrally formed carrier, sealing, and stopper portions and take only the stopper portion. As indicated above, it appears that the only way one skilled in the art could arrive at the gasket constructed by the Office Action is by first viewing the features of the claimed gasket. As such, Applicants again submit that this is an improper hindsight reconstruction and, therefore, claims 1, 10, and 17 are in condition for allowance.

Additionally, Applicants note that claim 1 recites the “first and second stopper members forming a cavity therebetween, with each having a height above said top surface” and “an elastomeric seal member located in said cavity ... having an apex which extends from said top surface and is greater than said height of said first and second stopper members.” The apex portion (30) in Creavey cannot be seen as extending from the top surface, as it extends from portion (13) which extends above stopper member (16), as seen in Figure 3. Applicants note that Figures 4 and 5 merely show the gasket of Figure 3 under fluid pressure and therefore cannot be seen as teaching the limitations of claim 1 either. The Poquet et al ‘575 reference also fails to disclose the claimed “cavity” between first and second stopper members. As such, Applicants submit that these features place claim 1 in condition for allowance in addition to those set forth above.

Claims 2-9, 11, 13, 15, 18-25 and 40 depend from claims 1, 10, and 17, and should be in condition for allowance for the reasons set forth above. Therefore, reconsideration and withdrawal of the rejection of claims 1-11, 13, 15, 17-25 and 40 are respectfully requested.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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